



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 12, 1997

Mr. Robert E. Hagar
Nichols, Jackson, Dillard, Hager & Smith
500 North Akard, Suite 1800
Dallas, Texas 75201

OR98-0683

Dear Mr. Hagar:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113799.

The City of DeSoto (the "city"), which you represent, received a request for a variety of information. The requestor asked, among other things, for all sustained and unsustained complaints regarding certain police officers, their training records, and other personnel information. The requestor also sought copies of completed automobile accident report forms, personnel information about other city employees, information about city procedures or ordinances, and other assorted records. We note that you asked this office only about personnel information concerning police officers and did not address the other information at issue, some of which may be confidential by statute. You specifically assert that section 143.089(g) of the Local Government Code protects some of the responsive information from disclosure.

Pursuant to section 552.301(b) of the Government Code, a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office copies or representative samples of the specific information that was requested.

Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile on January 21, 1998 that you had failed to submit copies of the requested

information, or representative samples of the requested information, as required by section 552.301(b). We requested that you provide this required information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the information at issue was presumed public. You did not provide our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information, such as a confidentiality statute that governs release of the information. See *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982).

You assert that some of the responsive information is protected from disclosure by section 143.089(g) of the Government Code. The court in *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied), addressed the availability of information that is contained in the department's internal file pursuant to section 143.089(g). The court determined that section 143.089(g) makes confidential any records kept in a police department's internal file. No such confidentiality provision governs information that is required to be maintained in the civil service personnel files pursuant to section 143.089(a) through (c). Information maintained in the civil service personnel files must generally be released to the public upon request, unless some provision of chapter 552 of the Government Code permits the civil service commission to withhold the information. Local Gov't Code § 143.089(f); Gov't Code §§ 552.006, .021; Open Records Decision No. 562 (1990) at 6 (construction of Local Gov't Code § 143.089(f) provision requiring release of information as required by law).

We agree that if any of the responsive information is maintained in the section 143.089(g) internal personnel file, this information is confidential and may not be disclosed.¹ However, we note that the requestor asked for some information that would be required to be maintained in the civil service file. Information in the civil service file is not generally confidential under section 143.089.

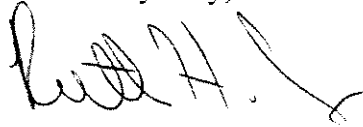
Because you did not submit the specific records at issue to this office, there is no basis by which we can conclude all of the responsive records are confidential by law. To the extent that responsive records are confidential under section 143.089(g) or other law, these may not be disclosed. See Gov't Code § 552.352 (the distribution of confidential

¹You asked whether chapter 552 of the Government Code is in conflict with section 143.089 of the Local Government Code. We note that since section 552.101 of the Government Code provides that information requested under the Open Records Act may not be released if it is confidential pursuant to other law, we see no conflicting provisions between these statutes. See Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

information is a criminal offense). The records otherwise are public and must be released. Gov't Code § 552.303(e).

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 113799

cc: Mr. Harold B. Cornish
601 Nora Lane
DeSoto, Texas 75115